

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Mayor's Agent for the Historic Landmark  
and Historic District Protection Act

Public Hearing

1223 4th Street, Northwest

9:31 a.m. to 10:06 a.m.

Friday, August 14, 2015

Office of Planning

1100 4th Street, SW, Suite E650

Washington, D.C. 20024

1     Appearances:

2         JUDGE PETER BYRNE, ESQ.,

3         Designated Mayor's Agent

4

5     For the Applicant:

6         ERIN STEVENS

7         1223 4th Street, NW

8         Washington, DC 20001

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10    For the Office of Planning

11         Brendan Meyer, Historic Preservation Specialist

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1 P R O C E E D I N G S

2 MAYOR'S AGENT BYRNE: Some statements for  
3 the record. So, I'm Peter Byrne. I am the  
4 designated Mayor's Agent through this matter,  
5 which involves an after-the-fact permit  
6 application to alter the facade of 1223 4th  
7 Street, Northwest. This application is assigned  
8 Historic Preservation Act Number 15-296.

9 This case is being heard under the  
10 authority of D.C. Law 2-144, the Historic  
11 Landmark and Historic District Protection Act of  
12 1978. This law requires that the Mayor or his  
13 Agent review proposed subdivisions and permit  
14 applications for demolition, alteration, and new  
15 construction on the site of historic landmarks  
16 that are within historic districts.

17 Prior to consideration by the Mayor's  
18 Agent, the law requires that applications be  
19 referred to the Historic Preservation Review  
20 Board for its recommendation. On April 23rd,  
21 2015, the review board recommended against the  
22 issuance of a permit on the grounds it would not

1 be consistent with the purposes of the Act.  
2 After the board made its recommendation, the  
3 Applicant requested this public hearing, as  
4 provided by law.

5 This hearing will be conducted in  
6 conformance with the D.C. Administrative  
7 Procedure Act, entitled 10-C, District of  
8 Columbia Municipal Regulations, which contain the  
9 rules of procedure for the Mayor's Agent pursuant  
10 to the preservation law.

11 So we'll proceed as follows: So we'll  
12 hear -- there are no procedural matters, I don't  
13 believe, so we'll just go on with presentation of  
14 the Applicant's case. We'll have statements by  
15 the public agency representative; I suppose that  
16 will be Mr. Meyer. And then there are no other  
17 parties here. You'll have a chance then to speak  
18 some more. And on we go.

19 So, I think that covers it. So, Ms.  
20 Stevens, welcome. I've gotten, I've received  
21 your prehearing statement.

22 MS. STEVENS: Okay.

1           MAYOR'S AGENT BYRNE: But you may proceed  
2 to make your case.

3           MS. STEVENS: Sure. So I met with  
4 Brendan some months back. And I told him at the  
5 time, and I'll tell you as well, I am sorry that  
6 it's an after-the-fact hearing. I'm not -- I was  
7 not that aware of the historic society rules and  
8 regulations. First time I've ever lived in a  
9 historic district. I'm an amateur in terms of  
10 renovations. And so I didn't go through the  
11 process the right way.

12           He explained to me, next time how I  
13 should have gone through the building permit  
14 process, as well as how that would have hit the  
15 historic preservation society. And therefore, we  
16 would have had a different outcome from this.

17           MAYOR'S AGENT BYRNE: Well, let me just  
18 point out that there's not a historic  
19 preservation society. I mean, it's not like it's  
20 a volunteer entity. This is, you know, a public  
21 cert provision review board. It's a publicly  
22 constituted administrative agency of the District

1 Government. So, it's a matter of law and not  
2 just a matter of some -- I just -- I don't know  
3 if the word "society" implied all that, but I  
4 thought I would just state that.

5 MS. STEVENS: Got you. Didn't mean to  
6 imply that. Simply meant I was unfamiliar with  
7 how the rules and regulations were employed.

8 MAYOR'S AGENT BYRNE: Yeah.

9 MS. STEVENS: And so, it's a learning  
10 experience for me. I'm somebody who doesn't do  
11 this full time.

12 So, with that, I've become at least a  
13 little more up to speed on how the historic  
14 preservation society employs the Act.

15 So, I want to point out a couple of  
16 things. So, in addition to the appeal that's  
17 here, what I'd really like to have my home  
18 reviewed on is the basis that it's a  
19 noncontributing row house that was built in 2007.  
20 And therefore, it should be held to the new  
21 construction and historic standards guidelines.

22 MAYOR'S AGENT BYRNE: Right.

1           MS. STEVENS: Which are found in here,  
2 but really not to those of historic homes. So,  
3 when looking through there, one of the things I'd  
4 like to point out is that, according to Section  
5 1.3 and 1.4, it actually says that it's not meant  
6 to be exactly duplicating the existing home. It  
7 should be of its own time. Because trying to  
8 duplicate the own home is actually creating that  
9 false sense of history. And so, instead it  
10 should be a new home, is of its own time, whereas  
11 the historic homes would be existing buildings  
12 showing the past.

13           So, with that, they've already had five,  
14 at least five different significant modifications  
15 that are going to make it of its own time.

16           MAYOR'S AGENT BYRNE: Um-hm.

17           MS. STEVENS: Those were outlined in the  
18 appeal that was submitted. So the five of those  
19 that I called out were, first of all, the  
20 additional story. I realize the way that the  
21 photograph is taken here, you're not able to see  
22 the additional story because it's taken from

1 down, looking up. However, and Brendan and I  
2 have discussed this, it's relatively visible from  
3 the street, as well as from artifacts, Appendix A  
4 within my appeal, from anywhere on the street.  
5 When you're standing, at eye level you can  
6 visibly see that there's now a third story, which  
7 is one of the accommodations.

8           The second accommodation, which is  
9 Exhibit B, is the fact that they've put basements  
10 in here. The third is the fact that the like-  
11 kind properties are all single units, whereas  
12 mine is a dual, a legal two-unit property, two  
13 floors on the bottom, two floors on the top.

14           The fourth one, which is Appendix C, is  
15 that the other, the historic homes that are  
16 adjacent to it that are all of the same era and  
17 type of construction, all have a form of side  
18 egress to the backyard. And the fifth one is  
19 what the material of the home is actually  
20 constructed out of. It's out of hardie-board,  
21 which is material that wasn't even available at  
22 the time of the construction of the historic



1 homes to its side.

2           So, as such, it is a noncontributing row  
3 home. And so, I look at it and say it in fact  
4 shouldn't be held to those same standards. If  
5 you hold it to the standards of something that is  
6 of its own time, one of the trends in real estate  
7 is to add more light to the homes, which arguably  
8 has health benefits, and certainly nothing, if  
9 nothing officious, more visually attractive.

10           So one of the components is that it,  
11 quite frankly, with a bunch of other brand-new  
12 construction, like what my house looks out on  
13 across the street, where they do have additional  
14 light put into the homes, where we do have a  
15 variety of historic homes, and other ones called  
16 out from M Street, in Appendix E, where they've  
17 been permitted to do either renovations or net  
18 new construction with larger windows, windows  
19 that are not of the time period.

20           And it's to show, as they call out in  
21 Section 1.3 and 1.4, it's showing the District's  
22 evolution in terms of the housing and real state

1 design, that I would ask that those same rules  
2 and regulations be applied to my home, which  
3 would mean that it should be considered that we  
4 would add an additional window, which is actually  
5 in line with --

6           If you look back at Appendix A, you'll  
7 notice that the top floor has three windows that  
8 are all adjacent to each other. It's really just  
9 putting that in line with the floor below it,  
10 which would give further credence to the fact  
11 that this is a common practice of the time in  
12 which this home was built.

13           So I know that the new construction piece  
14 is supposed to -- we want to retain and enhance  
15 the historic homes. But it is meant for the  
16 encourage of the adaptation of use, to reflect  
17 the evolution of the neighborhood, and it's not  
18 just supposed to be an intent at a false re-  
19 creation of history.

20           As such, I guess I ask that it be  
21 considered that the window be permitted in there.  
22 I understand I should have come and asked for

1 permission first and gone through a discussion.  
2 But with the understanding that this is meant to  
3 be a review and not to be punitive for the fact  
4 that I went through the proceedings in an  
5 incorrect fashion, I do think that there is merit  
6 to why this should be permitted under the new  
7 construction regulations.

8 MAYOR'S AGENT BYRNE: Okay. I understand  
9 you. I think I understand your argument.

10 Let me ask a couple of questions.

11 MS. STEVENS: Sure.

12 MAYOR'S AGENT BYRNE: So, in Appendix C,  
13 with the sort of the side entrances, what's your  
14 point there?

15 MS. STEVENS: My point is just, when  
16 Brendan and I were talking, he was explaining to  
17 me that my home is adjacent to the four homes  
18 that are, in fact, all historic.

19 MAYOR'S AGENT BYRNE: Yes.

20 MS. STEVENS: It's actually next to five  
21 historic homes, but only four are like kind.

22 MAYOR'S AGENT BYRNE: Right.

1           MS. STEVENS: Meaning that they have the  
2 same basic facades and fascia and rhythm and so  
3 forth.

4           MAYOR'S AGENT BYRNE: Um-hm.

5           MS. STEVENS: So, if the argument is that  
6 -- so I asked, why couldn't these accommodations  
7 be allowed for my noncontributing row home as  
8 opposed to, I'm being compared to contributing  
9 row homes, is my understanding from our  
10 discussion? So, my question is, well, if there's  
11 already even five accommodations for current  
12 times in the way it's constructed, why is  
13 arbitrarily a line being drawn at six?

14           So the form of egress from the side yard  
15 to the backyard is something that is present in  
16 the four historic homes.

17           MAYOR'S AGENT BYRNE: Right.

18           MS. STEVENS: It is not present in mine,  
19 which means we've already changed the fascia.

20           MAYOR'S AGENT BYRNE: Oh, I see.

21           MS. STEVENS: We've already changed the  
22 facade.

1 MAYOR'S AGENT BYRNE: Okay. I see.

2 MS. STEVENS: So I'm saying we can't make  
3 the argument that, well, mine's supposed to be --

4 (Cross-talk.)

5 MAYOR'S AGENT BYRNE: So that's a  
6 deviation. In your mind, that's a deviation from  
7 the historic pattern.

8 MS. STEVENS: Correct. So that's  
9 actually -- all five of those that I called out,  
10 to me, are all deviations of one form or another  
11 from the historic pattern.

12 MAYOR'S AGENT BYRNE: Yeah.

13 MS. STEVENS: And therefore, it's saying  
14 there is precedent, not just within my  
15 neighborhood, but within my row of homes, and  
16 these two that were built in 2007 --

17 MAYOR'S AGENT BYRNE: Right.

18 MS. STEVENS: -- for there to be  
19 accommodation for current time, market value, and  
20 the evolution of the neighborhood.

21 MAYOR'S AGENT BYRNE: Um-hm.

22 MS. STEVENS: I actually think historic

1 homes are beautiful. I like that I live in a  
2 neighborhood of historic homes. I just don't  
3 think trying to apply the historic standards to a  
4 noncontributing row house built in 2007 -- as far  
5 as I'm concerned, it's detrimental to me as  
6 someone who lives there that would prefer more  
7 light. And it also is detrimental to my resale  
8 value, as well as, for that matter, to property  
9 taxes, as it gets assessed for more.

10 I've been -- I've been investing in my  
11 home ever since I moved into it. It's cared for  
12 better now than it has been since it was built in  
13 2007. I'm just trying to make an enjoyable place  
14 to live.

15 MAYOR'S AGENT BYRNE: Okay. I  
16 understand.

17 All right. So, as I understand the  
18 matter, it's not, the Historic Preservation  
19 Office and the HPRB did not consider this to be a  
20 question of new construction, because of the fact  
21 that when those buildings were built, there was a  
22 demolition of noncontributing historic homes on

1 the site and that those were, that the new  
2 construction -- that the facades of the new  
3 construction were extensively reviewed by the  
4 HPRB and the Historic Preservation Office to try  
5 to provide continuity and similarity with the  
6 historic row.

7 Is that a fair statement, Mr. Meyer?

8 MR. MEYER: Yeah. And that was described  
9 in the staff report that I prepared for the  
10 office when the case went to HPRB. We outlined  
11 the history of the row.

12 MAYOR'S AGENT BYRNE: Yeah.

13 MR. MEYER: The recent history of this  
14 particular house within the row, because it was  
15 exceptional in the fact that it went through this  
16 process in 2006 of being demolished and  
17 reconstructed with the approval of the board,  
18 it's a very exceptional circumstance; the board  
19 rarely does that. In this case, they did it  
20 because the building had lost structural  
21 integrity after 20 years of abuse and non-  
22 maintenance.

1           The condition of the reconstruction in  
2   that 2006 board decision was that the new facades  
3   would replicate, as much as possible, the  
4   original facades, going to the point of salvaging  
5   some of the components, the door hooks and the  
6   corners of the buildings.

7           As new construction, the board granted  
8   some flexibility, as they typically do for new  
9   construction. But it was a design that was  
10   ultimately approved in concept by the board and  
11   constructed. So the staff report explains -- or  
12   presented to the board advised the board of the  
13   guidelines and regulations when it comes to the  
14   question of windows and rhythm of facades, both  
15   in the case of historic buildings, but also in  
16   the case of new construction.

17           In the guidelines for new construction, I  
18   could go to the section and recall it. But it's  
19   essentially, it's advised the rhythm of facades  
20   is important to the determination of whether or  
21   not new construction is compatible with its  
22   historic district.



1           So, you know, in a broader sense, the  
2 guidelines adopted by the board are meant for the  
3 general public or any property in our historic  
4 district. And our historic districts are quite  
5 numerous in the number of buildings they have.

6           Being general guidelines, there are times  
7 where different sections of the guidelines may be  
8 offsetting as to each other. It's the board's  
9 decision, or it's the board's responsibility to  
10 use the guidelines to review a design to assure  
11 whether it's compatible with the historic  
12 district and determine what are important  
13 features of a design that would allow it to be  
14 sufficiently compatible with the historic  
15 district.

16           So, while the office understands and  
17 sympathizes with Ms. Stevens on her selection of  
18 sections of the guidelines, it's the board's  
19 responsibility to determine which, what  
20 alterations are compatible in a historic  
21 district.

22           We are blessed to have variety and

1 richness, and also imparts consistency in our  
2 historic districts, our historic buildings. New  
3 construction adds to that variety. Things are  
4 allowed to change and be designed. It's the  
5 board's role to approve what they believe is  
6 compatible and consistent with the character of  
7 the neighborhood.

8           So it's not the nature of -- it's not a  
9 question of variety exists, so more additional  
10 variety should be okay, too. It's a matter of  
11 what design element is or is not compatible with  
12 the historic district.

13           MAYOR'S AGENT BYRNE: So, I'm hearing you  
14 say that, from the board's perspective, the  
15 office's perspective, there are two interrelated  
16 issues here. One is the approval of the  
17 reconstruction in 2007 specific guidance from the  
18 board as to what such looked like.

19           MR. MEYER: Um-hm.

20           MAYOR'S AGENT BYRNE: But that in some  
21 sense, can just say independently that if new  
22 construction standards were applied, that the

1 question of the rhythm of the windows on the  
2 facade across the row would be an important  
3 feature that would militate against approving the  
4 three-window set before.

5 MR. MEYER: Yes. In summary, that's what  
6 we advised the board, that regardless whether the  
7 board considered this a contributing building  
8 because it was reconstructed, or noncontributing  
9 because it was constructed in 2011, ultimately --  
10 regardless of which category they placed it in,  
11 the board's guidelines are consistent that the  
12 rhythm and pattern of facades across a row is an  
13 important principle to use when determining what  
14 constitutes compatible design or compatible  
15 alteration.

16 MAYOR'S AGENT BYRNE: Are you aware of  
17 any prior board or Mayor's Agent cases in which  
18 the reconstructed buildings were considered to be  
19 contributing buildings?

20 MR. MEYER: No. We follow the principles  
21 put down by the National Park Service. It's  
22 essentially a matter of authenticity and date of

1 construction. This historic district, every  
2 historic district has a period of significance.

3 MAYOR'S AGENT BYRNE: Right.

4 MR. MEYER: Off the top of my head, I  
5 believe this one goes up to 1939.

6 MAYOR'S AGENT BYRNE: Yeah.

7 MR. MEYER: So, very simply, a building  
8 built after 1939 is not a contributing.

9 MAYOR'S AGENT BYRNE: Right.

10 MR. MEYER: It can never be an authentic  
11 building built before 1939, for obvious logic.

12 MAYOR'S AGENT BYRNE: Right.

13 MR. MEYER: So it's really a simple  
14 matter of when the building is built, which to a  
15 large extent determines whether it's considered  
16 contributing or noncontributing.

17 MAYOR'S AGENT BYRNE: Okay. So Ms.  
18 Stevens is correct that this would be considered  
19 a noncontributing building?

20 MR. MEYER: Yes.

21 MAYOR'S AGENT BYRNE: Okay. Okay.

22 But the staff report, which I've read,

1 and then the board's decision states that whether  
2 a building is considered historic or a new  
3 building, that the uniform character of the  
4 fenestration across the front is an important  
5 element, under the board's view of the window  
6 guidelines.

7           And that therefore, even if -- even  
8 considering this new construction, without regard  
9 to the prior reconstruction, and even if Ms.  
10 Stevens had come with the plans before she had  
11 erected the building, your view is that the board  
12 would have -- if the office would have  
13 recommended, the board would have rejected the  
14 idea of three windows on the second floor?

15           MR. MEYER: Well, certainly, the office  
16 would recommend that three ganged windows is  
17 inconsistent with the pattern construction for a  
18 building of this vintage. It's inconsistent with  
19 the row of historic buildings that it was  
20 originally part of.

21           The examples of ganged windows in other  
22 parts of the historic district are simply from

1 buildings of different styles and eras than what  
2 this row is trying to be a part of. So, in the  
3 staff opinion, if an application was presented to  
4 the board prior to construction, our evaluation  
5 would have been the same.

6 MAYOR'S AGENT BYRNE: Yeah.

7 MR. MEYER: That to gang these windows is  
8 inconsistent with an 1870s frame building that  
9 this noncontributing building is trying to be a  
10 part of.

11 MAYOR'S AGENT BYRNE: Okay.

12 MR. MEYER: We probably would have cited  
13 new construction guidelines, which state, you  
14 know, rhythm is one of the principles used to  
15 evaluate whether new construction is compatible.

16 MAYOR'S AGENT BYRNE: Right.

17 MR. MEYER: And to quote the new  
18 construction regulations, "The spacing of  
19 repetitive facade elements, such as projecting  
20 base, storefronts, windows, doors, belt courses  
21 and the like, give an elevation its rhythm. The  
22 space between free-standing buildings, the

1   contiguousness of rowhouses and other part-wall  
2   buildings, and the height of roofs, cornices,  
3   towers and other roof projects establishes the  
4   rhythm of a street."

5               And this is enumerated at 6.1. "A new  
6   building should respect the rhythm of its  
7   neighbors as well as that of the street." So  
8   that is a guideline in our new construction  
9   guidelines. It would be logical to apply that to  
10  the alteration of a noncontributing building.

11              In our window guidelines, there is a  
12  section about changing window locations, which  
13  states, "The location of windows significantly  
14  contributes to the architectural character of  
15  elevations. In row houses and in attached  
16  commercial buildings, window patterns contribute  
17  to the visual appearance of entire blocks. Thus,  
18  the location of windows is one of their most  
19  important character-defining features. Altering  
20  the existing window pattern, either by changing  
21  their location or adding new windows to a facade,  
22  is strongly discouraged or should only be done

1 after carefully considering the effect of the  
2 change on the overall character of the building  
3 and consultation with the Historic Preservation  
4 Office."

5 MAYOR'S AGENT BYRNE: Okay. All right.  
6 Ms. Stevens, would you like to say some more?

7 MS. STEVENS: There are a couple of  
8 things. So, I do understand that rhythm is one  
9 of the twelve pieces of criteria in the new  
10 construction guidelines for the historic  
11 district. They have already made exceptions for  
12 three of them, scale, height, and material. So I  
13 guess, to me, drawing the line at rhythm being  
14 four of twelve versus three of twelve is an  
15 arbitrary and inconsistent application of the  
16 rules and regulations.

17 As far as whether or not it's consistent  
18 with the rhythm, that goes back to my point that  
19 we're trying to say that my home is the same as  
20 the four homes adjacent to it, which are actual  
21 contributing row homes. Mine is not a  
22 contributing row house. And so, according to the



1 regulations within the new construction, it  
2 specifically says, "compatibility does not mean  
3 exactly duplicating the existing buildings or  
4 environment. A new building should be seen as a  
5 product of its own time. . . . By relating to the  
6 existing buildings and the environment, but being  
7 of its own time, a new building shows a  
8 district's evolution just as the existing  
9 buildings show its past."

10           So I guess I look at it and go, I'm not  
11 sure why we're trying to make my home falsely  
12 represent the history that's directly next to it,  
13 when in fact it was built in 2007. As you put  
14 it, it's not authentic. And so that's why I  
15 think it should be considered in terms of an  
16 update for the period, and specifically the  
17 historic society.

18           So my understanding is that neighborhoods  
19 vote to be a part of the historic society. It's  
20 something that they come forward and request. So  
21 I understand that's something that, some decades  
22 back, my neighborhood went forward and requested.

1 With that, that also does mean it's something  
2 that is supposed to be of and for the  
3 neighborhood and the preservation of the  
4 neighborhood. So I did go out and poll my  
5 neighbors, as you may have in your packets.

6 MAYOR'S AGENT BYRNE: I do.

7 MS. STEVENS: So, I went through, and  
8 I've got the originals here, if you'd like, as  
9 well. And on both sides -- there are actually  
10 two different ones. I didn't know how many  
11 neighbors I would reach. And so it's all  
12 different people that have signed both sides.

13 MAYOR'S AGENT BYRNE: Oh, okay. Well,  
14 maybe I'll take those because I'm not sure I have  
15 all of those.

16 MS. STEVENS: And I think you actually do  
17 have them.

18 MAYOR'S AGENT BYRNE: Oh, I do have them.  
19 I do have them. Yeah, you're right. I do.

20 MAYOR'S AGENT BYRNE: On one side of it.  
21 I'm just saying it's actually not a duplicate.

22 MAYOR'S AGENT BYRNE: Yeah.

1           MS. STEVENS:  It's different signatures  
2  at the bottom.

3           MAYOR'S AGENT BYRNE:  Yes, yes.

4           MS. STEVENS:  But what this means is, I  
5  received -- and I gave them an opportunity to say  
6  "support" or "do not support."  I received  
7  unanimous approval from everyone on my block,  
8  including all of the contributing row houses,  
9  which I was, in theory, meant to replicate next  
10 door to me, that all support me keeping the  
11 windows.

12           So, I guess if this is really -- if it's  
13 the neighborhood that voted to be a historic  
14 district and the neighborhood is saying that they  
15 support this alteration and they believe it adds  
16 to the character of the neighborhood and that it  
17 adds to the visual appeal of the neighborhood,  
18 I'm not sure why we would choose to employ these  
19 regulations in a manner inconsistent with the  
20 desires of the neighborhood and the individual  
21 homeowner as well.

22           MAYOR'S AGENT BYRNE:  Well, it's a

1 relevant fact that your neighbors support what  
2 you want to do. But it's not the case that this  
3 is a consensual thing by the neighborhood. This  
4 is a -- designation is done by the Historic  
5 Preservation Review Board according to legal  
6 criteria. So it's not -- it's relevant, but it's  
7 not -- it's by no means determinative.

8 Do you have anything more you'd like to  
9 say, Mr. Meyer? I mean, what about she's sort of  
10 making the argument that, showing the difference  
11 in period and what -- do you have anything to say  
12 about the support of the neighbors?

13 MR. MEYER: She's pointing out the  
14 results of deliberative actions by the board.

15 MAYOR'S AGENT BYRNE: Um-hm.

16 MR. MEYER: The variations that she's  
17 pointing out either existed in historic buildings  
18 or alterations theoretically approved by the  
19 board, or they were done without permit and  
20 without approval.

21 There is variety in historic districts.  
22 To adopt the logic that there is variety in

1 historic districts, so therefore any other  
2 variety is okay would be a logic that would say,  
3 "We don't need the board, and so anyone can alter  
4 their buildings."

5           The job of the board is to determine,  
6 amongst its guidelines and principles and  
7 previous decisions, in the historic context of  
8 the historic districts, the board's role is to  
9 determine how much alteration, what kinds of  
10 alterations are allowable in the historic  
11 districts without destroying the integrity of the  
12 historic district.

13           So, yes, there will be modern  
14 contraptions, devices, and effects approved by  
15 the board, but that the board has determined are  
16 sufficiently compatible with the historic  
17 district, that they do the historic district no  
18 harm. The board's role is to draw the line  
19 somewhere in the spectrum of possible alterations  
20 and draw the line between what is compatible for  
21 the historic district and what would be  
22 incompatible for the historic district.

1           And I think the board played that role  
2   when they decided to deny this building permit.  
3   Because the board believed that the third window,  
4   in this context, in this elevation, if they  
5   believed it was compatible with the historic  
6   district, they could have approved the building  
7   permit when they heard this case.

8           (Pause.)

9           MAYOR'S AGENT BYRNE:   Okay.   I  
10   understand.   Okay.

11           Anything to conclude?

12           MS. STEVENS:   Can I just?   To that point,  
13   there are three things I heard come out of there.  
14   So, one is, Brendan pointed out that the windows  
15   are not consistent with the vintage of my home?  
16   Did you mean the vintage of 2007 or the vintage  
17   that was applied to the historic contributing row  
18   homes next to it?

19           MR. MEYER:   The house is part of a row  
20   that are buildings that were originally built  
21   about 1870.   The noncontributing facades are  
22   built to replicate that pattern.   The pattern of

1 construction for this row is of individual  
2 windows with wall spacing between. That's the  
3 way buildings were framed and the way windows  
4 were made for the period from which the buildings  
5 come or are trying to replicate.

6 Window technology, manufacturing  
7 technology, use, taste, all evolved with  
8 different historic eras. So to gang three  
9 windows together, we would find that on our deco  
10 building when metal channels allowed bigger spans  
11 of openings. We would find that in Victorian  
12 buildings when industrialization of window  
13 fabrication allowed for more ornate compositions  
14 of windows.

15 This building is from a row at a time of  
16 construction when the houses were built by  
17 individual artisans. Windows were built with  
18 saw, planes, hammers, and individually. And the  
19 framing between was such that ganging windows  
20 together in a building of this period was not  
21 possible, based on the way they built buildings.

22 So that's really a sample of the

1 architectural history and the history of  
2 technology that was the reason why there is a  
3 variety of windows. If the point of this row of  
4 buildings is to look like 1870s buildings,  
5 whether they were built in 1870 or whether  
6 they're built today to look like that, to gang  
7 windows together would be inconsistent with the  
8 technology of the period and the way windows were  
9 constructed in that period.

10 MS. STEVENS: So, I think that's exactly  
11 my point is that it's trying to hold me to the  
12 standards of an 1870 building. The reason they  
13 didn't have windows ganged together in 1870s,  
14 they didn't have the construction nor the window  
15 types that would have accommodated having those  
16 windows ganged together. And they also let in  
17 simply too much heat and cold at the time because  
18 we didn't have the systems like central AC that  
19 we do today.

20 So, that's where I go back to, if we're  
21 looking at me as being new construction, which  
22 means it should be -- it should not be -- does



1 not mean exactly duplicating the existing  
2 buildings, which is what I feel we're trying to  
3 do here. And that's the piece I don't  
4 understand.

5           So instead, if it's of its own time, now  
6 we do have those technologies. And we have  
7 things like central heat and AC that allow us to  
8 gang windows together and put more light into our  
9 homes. So this is, at the end of the day, I'm  
10 the one who lives there 365 days a year. And  
11 this does directly impact my enjoyment and the  
12 amount of light I get in my living room. So I  
13 just, whenever I hear it's not of the vintage,  
14 I'm going, my vintage is 2007, not 1870.

15           And then, my other two concluding points  
16 on that would be, when we talk about what the  
17 historic district determines to have to be  
18 consistent or inconsistent and compatible with  
19 the character of the row homes, there is an  
20 inconsistency to the application of those rules  
21 and regulations, as is exhibited by the fact that  
22 we have these 12 principles, 3 of which we've

1 already made accommodations and exceptions for  
2 with this noncontributing row house.

3           So it's inconsistent to say that, one,  
4 those five exceptions could be made for this home  
5 and this one couldn't; and two, when we look at  
6 Appendix E back here, those types of windows were  
7 not made available at the time that this home was  
8 built either. Nonetheless, when they applied for  
9 the permits, they were granted permission to put  
10 in these larger windows.

11           MAYOR'S AGENT BYRNE: I doubt it.

12           MS. STEVENS: Because it's consistent  
13 with the time.

14           MAYOR'S AGENT BYRNE: Do you know that  
15 that was done pursuant to a permit?

16           MS. STEVENS: I don't know it was done  
17 persistent (sic) to a permit --

18           MAYOR'S AGENT BYRNE: I can't believe  
19 that they got a permit for that. Because I tried  
20 to get a permit for that, and I couldn't get it.

21           (Laughter.)

22           MS. STEVENS: So in that case, my

1 question would be, why am I at a hearing and not  
2 the rest of the homes in the neighborhood that  
3 have also received larger windows and windows  
4 that are distinct from the period in which the  
5 home was built?

6 MAYOR'S AGENT BYRNE: There are limits to  
7 their enforcement capacity.

8 MS. STEVENS: So, if it's an inconsistent  
9 application or enforcement of the rules and  
10 regulations, I'm not sure that should be directly  
11 to my detriment.

12 MAYOR'S AGENT BYRNE: Yes.

13 MS. STEVENS: So I simply ask that there  
14 is a precedent for altering the windows. There's  
15 a precedent for a degree of alterations within  
16 new construction. But there's also a precedent  
17 for altering windows in historic contributing and  
18 noncontributing homes within the Mount Vernon  
19 Square Historic District.

20 And so, I ask that that inconsistent  
21 application not work directly against -- not be  
22 directly to my detriment.

1           MR. MEYER: Well, I think I could explain  
2 how that window that you pointed out is  
3 consistent with the regulations at the time that  
4 the window was installed. The historic district  
5 was created in 1998, I believe. That was a  
6 preexisting condition from before the historic  
7 district was created. Obviously, when we create  
8 a historic district, we can't knock on every door  
9 and make people turn back their clock.

10           We apply the regulations of the historic  
11 district after the historic district is created.  
12 Once the historic district is created, subject to  
13 the building code, which requires that window  
14 replacement or changes to the front of a historic  
15 building require a building permit.

16           So I think, technically, if we were  
17 surveying that particular building, we would find  
18 that that window was already in existence before  
19 it was an historic district.

20           MAYOR'S AGENT BYRNE: Almost every  
21 historic district has inconsistencies that date  
22 from before the law or before the designation of

1 the historic district; that's true. And that,  
2 you know, if one accepted that and said, "Well,  
3 therefore, you can't" -- it would defeat the  
4 purpose of the historic district going forward if  
5 you took the prior inconsistencies as a ground  
6 for allowing greater liberality in design of new  
7 construction.

8 But I do appreciate the fact that, you  
9 know, homeowners can feel as if this is a process  
10 that involves judgments by the board that are  
11 different from the ones that they wish the board  
12 would make, and that these are not -- this is not  
13 like the application of the tax code to a  
14 transaction, but is a judgment call by the board.

15 And that's why the system is based on  
16 people getting permits beforehand, requesting  
17 permits beforehand so that they can be -- so that  
18 the office and the board can make a judgment.

19 I understand the issue. I think I  
20 understand the issue involving your home in the  
21 sense that it is in this peculiar status of being  
22 new construction in which the board has made

1 various judgments about things that they allowed  
2 as deviations from the look of the row and others  
3 that they had. So I have to think about that.

4 And part of the question for me will be,  
5 you know, what's my authority vis a vis the  
6 board? Which is a question always for the  
7 Mayor's Agent.

8 MS. STEVENS: Okay. Is there any other  
9 information that I could furnish you with or  
10 anything else that you would like considered or  
11 discussed?

12 MAYOR'S AGENT BYRNE: I think you've made  
13 an intelligent, a good presentation. I think I  
14 understand your position.

15 MS. STEVENS: I'm not trying to be  
16 disrespectful of the rules and regulations. I  
17 don't mean by any means to deter, take away from  
18 my neighborhood or its historic integrity. I  
19 just, the time I went far down this path, it  
20 never even occurred to me that this would be  
21 considered to be impacting the look and feel of  
22 the historic district.

1           MAYOR'S AGENT BYRNE: Right. So, did you  
2 get a permit for the windows?

3           MS. STEVENS: I did not. And that's part  
4 of the discussion that we had, was that --

5           MAYOR'S AGENT BYRNE: Yeah. So that's  
6 part of the system, is that your contractor is  
7 supposed to get a permit. And that alerts them,  
8 you, to the fact that there's this review  
9 process.

10          MS. STEVENS: So I'm coming up to speed  
11 on this.

12          MAYOR'S AGENT BYRNE: Yeah.

13          MS. STEVENS: But I did not understand  
14 that that was the process issue, not at the time.

15          MAYOR'S AGENT BYRNE: The contractors  
16 ought to have their licenses taken away. But  
17 that doesn't happen so often. Because they have  
18 a responsibility in this process that they don't  
19 always fulfill. So that part was very  
20 unfortunate, and I see lots of cases like that.

21          Okay. So I will go back over the record.  
22 I'll think about this in terms of the unusual

1 status of your home and try to issue an opinion  
2 in a timely manner.

3 MS. STEVENS: Okay. And after that, I  
4 assume that you'll then -- you'll send a notice  
5 or something in my direction?

6 MAYOR'S AGENT BYRNE: Oh, yeah. You'll  
7 get a copy of the decision and order.

8 MS. STEVENS: Okay.

9 MAYOR'S AGENT BYRNE: Yeah.

10 MS. STEVENS: Thank you.

11 MAYOR'S AGENT BYRNE: Thank you.

12 (Whereupon, at 10:06 a.m., the  
13 proceedings concluded.)  
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